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Jonathan Miller  
Secretary

**TO:** Secretary Mary Lassiter  
Members of Governor's Executive Cabinet  
Agency Heads

**FROM:** Jonathan Miller, Secretary  
Finance and Administration Cabinet

**DATE:** February 1, 2011

**SUBJECT:** Process Changes – Personal Service Contracts & EO1

Pledging to continue good stewardship of scarce tax dollars, Gov. Steve Beshear first introduced the Smart Government Initiative (SGI) in January 2010 to extend and expand efficiency efforts to broad sectors of government to save money and state resources. After a year of exploration and research with the assistance of over 200 state employees, we are ready to begin implementing the innovative solutions resulting from SGI.

The SGI program consists of five workgroups charged with conducting in-depth reviews of spending in the areas of information technology, transportation services, postal services, state-owned assets and procurement. I'd like to make you aware of two changes that will be made relating to personal service contracts and the expenditure of state funds that materialized after extensive review of procurement processes. Details of these policies can be found in the attached memorandum.

First, to ensure Personal Service Contracts (PSCs) are established only when necessary for services that cannot reasonably be performed by any other state agency or university, more oversight will be provided in the procurement of PSCs. Agencies intending to issue a Request for Proposal for a PSC exceeding \$10,000 or any PSCs for Architectural and Engineering services must first file a Letter of Intent (LOI) with the Finance and Administration Cabinet. Additionally, all proposed PSCs for legal services must be approved by the Governor's Office, Office of General Counsel. These new policies are intended to help ensure such contracts are justified.

The second change is in response to concerns voiced by many of you about the current approval process for the procurement of goods and equipment as outlined in an Executive Order issued by Gov. Beshear referred to as EO1. A threshold for purchases is used to confirm the need for proposed purchases but the process is not intend to delay the delivery of service to the customers of the Commonwealth.

In an effort to make the procurement process as efficient as possible and still maintain a proper level of oversight over state expenditures, Finance will delegate to the agencies the review of their own expenditures of less than \$25,000, with

some exceptions outlined in the attached memo. Allowing more of the approval process at the agency level will demand closer scrutiny internally while allowing the Finance and Administration Cabinet to expedite larger scale requests. Agencies will be required to continue their internal review processes to provide data for compliance and audit.

The Office of Procurement Services will host an informational meeting with relevant cabinet and agency procurement staff on Monday, February 7, 2011, from 8:30 a.m. to 10:30 a.m. at the KYTC Auditorium, to review these changes and to ensure questions are addressed as quickly as possible. Your assistance in encouraging participation within your cabinet or agency is greatly appreciated. Additional training sessions may be arranged if necessary to meet the demand.

Thank you for your continued cooperation and support of SGI.

Attachments

## PERSONAL SERVICE CONTRACTS

KRS 45A.690-725 permits the procurement of professional services by means of Personal Service Contracts when state personnel are not available or it is not feasible for state personnel to perform the service. State agencies must determine whether another state agency or state university can reasonably provide the needed service prior to initiating the Personal Service Contract procedure. In addition to the Personal Service Contract procedures already in place, the following shall be required immediately **BEFORE** a state agency begins the process to establish a Personal Service Contract:

### **Letter of Intent to Contract (LOI)**

State agencies needing to purchase eligible services by Personal Service Contract that will **exceed \$10,000** must file a **Letter of Intent to Contract** (LOI) with the Finance and Administration Cabinet. The LOI should be filed at least two (2) weeks prior to the intended date for the issuance of the Request for Proposal. State agencies needing to purchase Architectural and Engineering (Design) Services in any amount must file a **Letter of Intent to Contract** (LOI) with the Finance and Administration Cabinet.

In addition, please note that all proposed Personal Service Contracts for legal services must be reviewed and approved by the Office of General Counsel, Governor's Office.

The EO1 document in eMARS will be the mechanism by which to route and track the LOI. By selecting "Personal Service Contract" from the "type of request" drop down list, the document will route all PSC's except Architectural and Engineering PSCs to the Office of Procurement Services. By selecting "Architectural & Engineering PSC" from the "type of request" drop down list, the document will route to the Division of Engineering and Contract Administration. These offices will be responsible for the review and approval.

The EO1 will no longer be reviewed by the weekly EO1 review committee.

If an agency selects either "Personal Service Contract" or "Architectural & Engineering PSC", **all** of the following information **must** be entered in the "Purpose and Justification" field:

- A description of needed service;
- Briefly explain why the needed service cannot reasonably be provided by an agency of state government or state university;
- Estimate the planned amount of work involved;
- Estimate the contract cost per fiscal year (including anticipated amendments); and
- An agency contact person for the requested contract.

Note: The "*Purpose and Justification*" field holds 4,000 characters. If more space is required, attach a Word document at the EO1 Header. If this is necessary, enter as much information as possible in the *Purpose and Justification* field and add "Additional information attached at the Header." **Do not** enter "see attached" as the only text in the *Purpose and Justification* section.

### **Exemption from Competitive Bidding**

Justification for exemption from competitive bidding for a Personal Service Contract (sole source or not practicable to bid) must be entered in the "*For Agency Use*" section of the EO1 in eMARS. This request will be reviewed at the same

time as the LOI information and will replace the need for a separate letter. If the LOI is approved and the exemption from competitive bidding is not approved, the agency will be notified accordingly.

Note: The “*For Agency Use*” field holds 1,500 characters. If more space is required, attach a Word document at the EO1 *Header*. If this is necessary, enter as much information as possible in the *For Agency Use* section and add, “Additional information attached at the *Header*.” **Do not** enter “see attached” as the only text in the *For Agency Use* field.

### **Request for Proposal**

In addition to the LOI, a draft Request for Proposal must be submitted to the Office of Procurement Services, Finance and Administration Cabinet for review before it is issued by an agency, except for Architectural and Engineering Personal Service Contracts. These are issued by the Finance and Administration Cabinet’s Division of Engineering and Contract Administration. The draft Request for Proposal should be filed at least one (1) week prior to the intended date of issuance of the Request for Proposal. Agencies shall make cost the primary evaluation factor in the awarding of the contract, whenever appropriate. The scoring criteria shall be communicated to the prospective offerors in the RFP. Record the approved EO1’s document number in the document comments. **Do not** attach the EO1 to the RFP. All Requests for Proposal will be reviewed by the Finance and Administration Cabinet (FAC) prior to posting the solicitation on the eMARS Vendor Self-Service website. FAC will be inserted as the final approver in the approval chain. Once approved by FAC, the solicitation will post to the website. After the RFP closes, and the agency has determined the best proposal received, the agency may negotiate a fair and reasonable compensation with the selected vendor. The Finance and Administration Cabinet will offer training sessions for contract negotiations in the near future.

### **EO1 PROCESS – New thresholds**

In an effort to make the EO1 review process as efficient as possible and still maintain a proper level of oversight over state expenditures, the dollar thresholds have been raised on some types of request to allow for the process to take place at the agency level. The Finance and Administration Cabinet will periodically review thru reports all EO1s that will no longer go to the EO1 Review Committee. Those items and amounts to be reviewed at the agency level will still require the EO1 process to be followed and will still require the agency head, or designee to approve those EO1 expenditure requests. All approvals of these will be at the agency level. Please remember that the approval of an EO1 document means the items or services have been authorized to begin the procurement process. Agencies must procure these items or services according to procurement policies and procedures, administrative regulations, and statutes. Special authority requests, delegations and other specific methods of procurement are not approved through this review. Follow normal request procedures to obtain approval for specific methods of procurement.

The dollar value at which procurements for **some (but not all)** goods or services must be submitted for review (“exceptions process”) will be raised to \$25,000.

- Procurements of vehicle repairs/vehicle parts totaling less than \$5,000 will no longer be submitted for review.
- Procurements totaling \$1,000 or more and related to vehicles, postal/postage/mailing, printing, information technology, construction services, real property leases and all ARRA requests will continue to be submitted for review.
- Procurements of all other goods or services totaling less than \$25,000 will no longer be submitted for review.
- Personal service contracts will be processed as described earlier in this memorandum.

Agencies must utilize the current eMARS EO1 process for all internal expenditure requests. A chart of the various types of expenditure requests and the new thresholds is attached.

Please contact Don Speer, Executive Director, Office of Procurement Services, at 564-4510, [don.speer@ky.gov](mailto:don.speer@ky.gov), if you have any questions concerning these new procedures.

Attachment

Type of Request	Threshold	Rules Change
Architectural & Engineering PSC	All dollar amounts	After agency applies approvals, FAC Division of Engineering and Contract Administration (DECA) will be the final approver. Once DECA applies final approval, the action status is changed to "Approved." These will not go to the EO1 Review Committee.
Architectural & Engineering PSC Sole Source	All dollar amounts	After agency applies approvals, FAC Division of Engineering and Contract Administration (DECA) will be the final approver. Once DECA applies final approval, the action status is changed to "Approved." These will not go to the EO1 Review Committee.
Architectural & Engineering PSC Not Practicable to Bid	All dollar amounts	After agency applies approvals, FAC Division of Engineering and Contract Administration (DECA) will be the final approver. Once DECA applies final approval, the action status is changed to "Approved." These will not go to the EO1 Review Committee.
Personal Service Contract	> or = \$10000	After agency applies approvals, FAC Office of Procurement Services (OPS) will be the final approver. Once OPS applies final approval, the action status is changed to "Approved." These will not go to the EO1 Review Committee.
Personal Service Contract Sole Source	All dollar amounts	After agency applies approvals, FAC Office of Procurement Services (OPS) will be the final approver. Once OPS applies final approval, the action status is changed to "Approved." These will not go to the EO1 Review Committee.
Personal Service Contract Not Practicable to Bid	All dollar amounts	After agency applies approvals, FAC Office of Procurement Services (OPS) will be the final approver. Once OPS applies final approval, the action status is changed to "Approved." These will not go to the EO1 Review Committee.
Memorandum of Agreement (MOA)	> or = \$25000	Final approval at agency. Action status is "Pending Review." EO1 processes as current process.
Grant	> or = \$25000	Final approval at agency. Action status is "Pending Review." EO1 processes as current process.
University Agreement	> or = \$25000	Final approval at agency. Action status is "Pending Review." EO1 processes as current process.
Construction Services	> or = \$1000	Final approval at agency. Action status is "Pending Review." EO1 processes as current process.
Postal Services & Equipment	> or = \$1000	After agency applies approvals, Finance Postal Services will be the final approver. Action status is "Pending Review." EO1 processes as current process.
Printing	> or = \$1000	After agency applies approvals, COT Printing will be the final approver. Action status is "Pending Review." EO1 processes as current process.
Real Property Lease	> or = \$1000	Final approval at agency. Action status is "Pending Review." EO1 processes as current process.

Type of Request	Threshold	Rules Change
Temp Labor Task Order (Non-IT)	> or = \$25000	After agency applies approvals, State Personnel will be the final approver. Action status is "Pending Review." EO1 processes as current process.
Other Services, Non-Professional	> or = \$25000	Final approval at agency. Action status is "Pending Review." EO1 processes as current process.
Furniture	> or = \$25000	Final approval at agency. Action status is "Pending Review." EO1 processes as current process.
Equipment (Not IT)	> or = \$25000	Final approval at agency. Action status is "Pending Review." EO1 processes as current process.
Other Goods	> or = \$25000	Final approval at agency. Action status is "Pending Review." EO1 processes as current process.
Vehicles	> or = \$1000	After agency applies approvals, "Fleet Management" will be the final approver. Action status is "Pending Review." EO1 processes as current process.
Vehicle repairs and parts	> or = \$ 5000	Final approval at agency. Action status is "Pending Review." EO1 processes as current process.
IT Hardware	> or = \$1000	Final approval at agency. Action status is "Pending Review." EO1 processes as current process.
IT Software	> or = \$1000	Final approval at agency. Action status is "Pending Review." EO1 processes as current process.
IT Services	> or = \$1000	Final approval at agency. Action status is "Pending Review." EO1 processes as current process.
IT Maintenance	> or = \$1000	Final approval at agency. Action status is "Pending Review." EO1 processes as current process.
IT Task Orders	> or = \$1000	Final approval at agency. Action status is "Pending Review." EO1 processes as current process.
ARRA - Federal Stimulus	> or = \$1000	Final approval at agency. Action status is "Pending Review." EO1 processes as current process.